



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,311	12/22/2005	Michael Popovsky		3777

7590  
Michael Popovsky  
Spongetech, Inc.  
8507 S. La Cienega Blvd.  
Inglewood, CA 90301

08/29/2010

EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

08/20/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/562,311

**Applicant(s)**

POPOVSKY ET AL.

**Examiner**

Randall Chin

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-7, 13-20, 22-38 and 92-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7, 13-20, 22-38 and 92-102 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The Declaration of Eric Jungermann under 37 CFR 1.132 filed 08 June 2010 has been noted.

***Claim Objections***

2. Claim 20 is objected to because of the following informalities:

In claim 20, line 7, applicant has changed the term "Ricinulate" to "Ricinoleate".

Applicant is respectfully requested to also amend the specification as well on this matter for consistency and clarity.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 13 and 93-98 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 93, lines 1-3, the limitation reciting that "the pourable sodium soap is generated by (i) heating the oil or tallow fatty acid, (ii) reacting the oil or tallow fatty acid with sodium hydroxide" is not originally supported and is deemed to constitute new matter.

In claim 98, lines 1-10, the entire limitation reciting that "the pourable sodium soap is generated from fatty acids of oils selected from the group consisting of palm oil, palm kernel oil, coconut oil, olive oil, castor oil, and safflower oil and fatty acids of tallow and the pourable soap is formed by the sequential steps of (i) hydrolyzing the oil or tallow with high-pressure steam to yield crude fatty acids and glycerine, (ii) removing the glycerine, (iii) purifying the crude fatty acids by distillation, (iv) neutralizing the fatty acids with a strong alkali to produce soap and water, and (v) adding to neutralized mixture of step (iv) glycerine and at least one additive selected from the group consisting of group consisting of sugars, polyhydroxy compounds and amino alcohols" is not originally supported and is deemed to constitute new matter.

Paragraphs 5. through 7. of the Declaration of Eric Jungermann under 37 CFR 1.132 filed 08 June 2010 have been noted, however, are insufficient to overcome the above new matter rejections.

In claim 13, line 3, the limitation reciting that "**7** to 19% sodium cocoate soap" (emphasis added) is not originally supported and is deemed to constitute new matter.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7, 13-20, 22-38 and 99-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuven 5,960,506 (hereinafter Reuven) in view of McManus 6,187,728 (hereinafter McManus).

As for claim 92, the patent to Reuven discloses in Figs. 2-5 a web of filaments or fibers 20 forming a pad 10, and a solid cleansing agent soap 30 impregnated into and distributed substantially throughout said pad 10 in a quantity sufficient for multiple uses of the pad 10 in conjunction with a solvent (water) that dissolves the solid cleansing agent soap 30 for cleansing purposes (col. 3, line 38-64 and col. 4, lines 3-24). The patent to Reuven discloses all of the recited subject matter as set forth above with the exception of the solid cleansing agent soap being a pourable sodium soap containing at least two sodium soaps generated from (i) fatty acids of oils selected from the group consisting of palm oil, palm kernel oil, coconut oil, olive oil, castor oil, safflower oil, and (ii) fatty acids of tallow, and 5% to 35% glycerine and up to 10% propylene glycol.

The patent to McManus discloses a cleansing pad in Fig. 2b, for example, comprising a web of fibers 4 (col. 3, lines 15-18, col. 5, lines 9-12, col. 7, lines 44-50) forming a pad, and a solid cleansing agent pourable soap 5 in a quantity sufficient for multiple uses of the pad in conjunction with a solvent (water) that dissolves the solid

cleansing agent pourable soap for cleansing purposes, and wherein the solid cleansing agent pourable soap contains glycerine (col. 3, lines 15-18 and col. 4, lines 45-57) and the solid cleansing agent soap being a pourable sodium soap containing at least two sodium soaps generated from (i) fatty acids of oils selected from the group consisting of palm oil, palm kernel oil, coconut oil, olive oil, castor oil, safflower oil, and (ii) fatty acids of tallow (col. 4, lines 41-57). It would have been obvious to one of ordinary skill in the art to have substituted the already known solid cleansing agent pourable sodium soap containing sodium soaps and glycerine of McManus for the solid cleansing agent soap of Reuven for mildness purposes to avoid any excessive abrasion associated with washing/scrubbing body parts during cleaning or for purely aesthetic reasons. As for there being specifically 5% to 35% glycerine and up to 10% propylene glycol, through simple optimization/testing techniques one of ordinary skill would find it obvious to choose such claimed percentage values/ranges (or optimum percentage values/ranges) depending on the desired goals to be achieved. As for claim 92 reciting that the pourable sodium soap has a melting point of 120 degrees F to 160 degrees F, the Reuven reference, as modified by McManus, meets such recitations. The modified Reuven device is deemed to produce lather in both hard as well as soft water.

As for claim 5, the provision of the known component sodium oleate in an optimum value/range would be well within the level of ordinary skill depending on the desired goal.

As for claim 6, the oils are deemed organically produced oils (col. 4, lines 41-57).

As for claim 7, the pourable sodium soap comprises sodium soaps and one or more of sugars, polyhydroxy compounds other than glycerine and amino alcohols (col. 4, lines 41-57).

As for claims 13, 14, 15, 17, 18, 19 and 20, the various claimed ingredients are taught by McManus and the mere optimum values/range would be well within the level of ordinary skill through simple optimization techniques depending on the desired goal for the device (col. 4, lines 41-57).

As for claim 16, the provision of the known component triethanolamine in an optimum value/range would be well within the level of ordinary skill depending on the desired goal (col. 6, lines 13-29).

As for claim 22, in Reuven, the pad comprises synthetic materials (col. 3, lines 47-51).

As for claim 23, in Reuven, the pad comprises naturally occurring materials (e.g., cotton as recited at col. 3, lines 47-51).

As for claim 24, in Reuven, the substrate is reticulated (Fig. 4).

As for claim 25, in Reuven, the substrate is also deemed non-reticulated in certain areas.

As for claim 26, the substrate is deemed selected from the group consisting essentially of porous polyurethane, polyethylene or cellulose (col. 3, lines 47-55).

As for claim 27 reciting that the substrate comprises a sponge, it would have been obvious to one of ordinary skill in the art to have utilized a sponge depending on desired cleaning goals and/or surfaces.

As for claim 28, the substrate comprises woven materials (Fig. 4).

As for claim 29 reciting that the substrate comprises non-woven materials, such would have been obvious to one of ordinary skill in the art to have depending on desired cleaning goals and/or surfaces.

As for claim 30 reciting that the substrate comprises cotton and loofah-based materials, such would have been obvious to one of ordinary skill in the art to have depending on desired cleaning goals and/or surfaces.

As for claims 31 and 32, the claimed weight ratios are deemed within the level of ordinary skill and merely depends on desired final design and aesthetic considerations.

As for claim 33, in Reuven, the solid cleansing agent pourable soap distributed substantially throughout the pad can be comprised of fragrances (col. 3, lines 60-61 and col. 4, lines 9-12).

As for claim 34, in Reuven, the solid cleansing agent pourable soap distributed substantially throughout the pad can be comprised of skin moisturizers (col. 3, lines 60-61 and col. 4, lines 9-12).

As for claim 35, there can be one or more of anti-cellulite substances, anti-aging substances, herbal substances, natural extracts and synthetic extracts (col. 4, lines 3-12).

As for claim 36, Reuven, as modified by McManus, can include colorants (col. 10, lines 16-22).



As for claim 37, there can be one or more active ingredients comprising sunscreen agents, antimicrobials, antiseptics and/or healing agents and combinations thereof (col. 4, lines 3-12).

As for claim 38, there can be one or more skin feel additives (col. 4, lines 3-12).

As for claims 99 and 100, in the modified Reuven device, the natural solid cleansing agent pourable soap is deemed essentially free or free of synthetic detergents.

As for claims 101 and 102, the device, being made of similar materials claimed, is deemed to produce foam in hard water having greater than about 150 ppm or 300 ppm of calcium and magnesium metal cations.

### ***Conclusion***

6. Applicant's arguments with respect to claims 5-7, 13-20, 22-38 and 92-102 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/  
Primary Examiner, Art Unit 3723